

HCS SCS SB 484, 477 & 606 -- TELECOMMUNICATIONS

SPONSOR: Rupp (Gatschenberger)

COMMITTEE ACTION: Voted "do pass" by the Committee on Utilities by a vote of 14 to 3.

This substitute changes the laws regarding telecommunications. In its main provisions, the substitute:

(1) Allows an applicant for a salvage dealer license to list a wireless telephone number as the means for the public to contact the place of business;

(2) Requires a telecommunications carrier and certain commercial mobile service providers to provide, upon request, call location information concerning the user of a telecommunications service or a wireless communications service to a law enforcement official or agency in order to respond to a call for emergency service or to provide information in an emergency situation that involves danger of death or serious physical injury to any person where disclosure of communications relating to an emergency is required without delay. There will be no cause of action in any court against any telecommunications carrier or telecommunications service or commercial mobile service providers as well as telecommunications service or wireless communications services or its officers, employees, agents, or other specified persons for providing this information, facilities, or assistance to a law enforcement official or agency. These provisions cannot prohibit a telecommunications carrier or commercial mobile service provider from establishing protocols by which it can voluntarily disclose call location information;

(3) Allows telecommunications and broadband service providers and rural electrical cooperatives to attach, maintain, and operate their equipment on another's pole in order to promote, encourage, and facilitate the deployment of electrical smart grid technologies, broadband communications, and similar advanced technologies in rural areas of the state under specified terms and conditions. Currently, pole attachment rules are enforced by the Federal Communications Commission (FCC). These provisions will apply to cable television providers and others transmitting information that are not capable of providing broadband except that they will be subject to the laws regarding easements as they existed prior to August 28, 2012. No attachment can be made without a written agreement between the pole owner and the attaching entity. The provisions of the substitute must be interpreted in a manner consistent with FCC rules for pole and conduit attachments unless otherwise specified. The attaching party must give notice to a pole owner of its intent to attach

and the specific location of the attachment, and the owner, unless otherwise agreed, must respond within 15 days with specified exceptions. The attaching entity must pay for any damages and modification costs incurred by the pole owner to facilitate attachments, and the continued reliability and safety of the pole owner's system must have priority over the attachments. A pole owner must be entitled to a reasonable fee for permitting attachments that may be specified by contract, but the fee must not exceed reasonable costs to the pole owner's system as calculated in a manner similar to the FCC rules for pole and conduit attachments. Additional costs may be charged upon a showing of inefficiencies in its maintenance of its system due solely to the attachment equipment. An existing contract must remain in full force for its full term. The substitute specifies cost limitations for new contracts which may be enforced in circuit court and allows the use of non-binding mediation to resolve rate disputes. A pole owner may collect interest and penalties on the amount determined to be owed to him or her in court and reasonable attorney fees but must give 45 days' notice to the attaching entity prior to filing a collection action. For all easements and right-of-way interests acquired prior to August 28, 2006, a pole owner may allow an attachment under the scope of its existing property easement with the property owner if the attachment does not unreasonably burden the property owner or cause a diminution in value to the property owner's property. A property owner retains the right to file suit for diminution in value, lack of use of property, and physical damages to property caused by the use and installation of poles and attachments. However, evidence of revenues or profits derived by telecommunication providers or rural electrical cooperatives from providing these services is not admissible in any proceeding by the property owner to recover damages. A property owner may additionally request to receive a one-time payment from a rural electric cooperative that is not provided for in an existing easement for the use of the cooperative's facilities for broadband or similar communications use. The payment is to be calculated at a rate of \$500 per mile prorated for the distance the attached line crosses the owner's property with a minimum payment of \$100 per parcel under specified circumstances. This provision will not apply to cable television providers and specified others transmitting information that are not capable of providing broadband. The provisions of Section 523.283, RSMo, must continue to govern and apply to all easements or right-of-way interests acquired after August 28, 2006, and these provisions cannot be construed to abrogate or conflict with the provisions of Chapter 523 or to confer the power of eminent domain on any entity not granted that power prior to August 28, 2012. These provisions are nonseverable, and if any provision is held to be invalid for any reason, the remaining provisions will be invalid; and

(4) Changes the laws regarding the state's No-call List to allow a residential subscriber to have his or her wireless telephone number added to the list. Currently, the definition of "residential subscriber" is a person who has subscribed to residential telephone service from a local exchange company or the other persons living or residing with the person. The substitute changes it to a person who, for primarily personal and familial use, has subscribed to residential telephone service, wireless service or similar service, or the other persons living or residing with the person. Currently, the definition of "telephone solicitation" is any voice communication over a telephone line from a live operator, through the use of ADAD equipment or by other means for the purpose of encouraging the purchase or rental of, or investment in, property, goods or services, but does not include specified communications. The substitute changes it to any voice, facsimile, short messaging service (SMS), or multimedia messaging service (MMS) for that purpose.

FISCAL NOTE: No impact on state funds in FY 2013, FY 2014, and FY 2015.

PROPOSERS: Supporters say that the bill will help reduce unwanted telephone solicitations and bring the state's No-call List up-to-date by including new technologies as text messaging and cell phones.

Testifying for the bill was Representative Gatschenberger for Senator Rupp.

OPPOSERS: There was no opposition voiced to the committee.